

77-2a-3. Manner of entry of plea -- Powers of court.

(1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be done in full compliance with the provisions of Rule 11, Utah Rules of Criminal Procedure.

(b) In cases charging offenses for which bail may be forfeited, a plea in abeyance agreement may be entered into without a personal appearance before a magistrate.

(2) A plea in abeyance agreement may provide that the court may, upon finding that the defendant has successfully completed the terms of the agreement:

(a) reduce the degree of the offense and enter judgment of conviction and impose sentence for a lower degree of offense; or

(b) allow withdrawal of defendant's plea and order the dismissal of the case.

(3) Upon finding that a defendant has successfully completed the terms of a plea in abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as provided in the plea in abeyance agreement or as agreed to by all parties. Upon sentencing a defendant for any lesser offense pursuant to a plea in abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of the offense.

(4) The court may require the Department of Corrections to assist in the administration of the plea in abeyance agreement as if the defendant were on probation to the court under Section 77-18-1.

(5) The terms of a plea in abeyance agreement may include:

(a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and which may not exceed in amount the maximum fine and surcharge which could have been imposed upon conviction and sentencing for the same offense;

(b) an order that the defendant pay restitution to the victims of the defendant's actions as provided in Title 77, Chapter 38a, Crime Victims Restitution Act;

(c) an order that the defendant pay the costs of any remedial or rehabilitative program required by the terms of the agreement; and

(d) an order that the defendant comply with any other conditions which could have been imposed as conditions of probation upon conviction and sentencing for the same offense.

(6) A court may not hold a plea in abeyance without the consent of both the prosecuting attorney and the defendant. A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

(7) No plea may be held in abeyance in any case involving a sexual offense against a victim who is under the age of 14.

(8) Beginning on July 1, 2008, no plea may be held in abeyance in any case involving a driving under the influence violation under Section 41-6a-502.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 339, 2008 General Session

Amended by Chapter 382, 2008 General Session